



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101  
August 1, 2002

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Reply To  
Attn Of: WCM-121

Mr. Orville Green  
Idaho Department of Environmental Quality(IDEQ)  
1410 North Hilton  
Boise, Idaho 83706

Re: Requirements for Closing the FMC Calciner Ponds under IDEQ  
Consent Order  
EPA ID No: IDD 07092 9518

Dear Mr. Green:

This letter concerns the Consent Order and Statement of Work (SOW) for the FMC Calciner Ponds, signed by FMC on June 27, 2002, and by IDEQ on July 8, 2002. We have reviewed the Order and SOW and are concerned about the three-year schedule for closing the ponds.

My staff first communicated this concern to IDEQ during initial discussions of the IDEQ Order in April 2002 when FMC expressed a desire to close these units over a three-year period, allowing the water to evaporate prior to capping these units. Following these discussions, IDEQ provided EPA with a draft SOW on May 31, 2002, and asked for comments. The concern about the schedule was again noted in comments on the draft SOW provided to IDEQ on June 4 and June 29, 2002.

RCRA requirements (40 CFR 265.113) specify that, unless the facility can demonstrate that closure will, of necessity, take longer, closure must be completed within 180 days after receipt of the final volume of hazardous waste. The SOW (Section IV, Paragraph C, part 5) allows FMC to complete the closure over a three-year time-frame. EPA believes that, if active water removal is initiated promptly, these ponds can be dewatered and the material can be stabilized in time to accomplish installation of caps during the next field season. Unlike the other ponds at FMC, the elemental phosphorus concentrations in the calciner ponds are low enough that it is not necessary to prevent the sediments from coming in contact with the air and should not require three years or the process utilized for the other ponds on site to dewater. Delaying closure will result in continued contaminant releases to the ground water and surface water, and

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may prevent the facility from meeting the Congressional deadline of 2005 to achieve environmental indicators.

This illustrates a more general issue affecting our continuing partnership on environmental regulatory matters. IDEQ staff recently faulted EPA for not always keeping IDEQ up to date on decisions and documents involving FMC that are of significance to the State, and we have tried to improve our level of communication. However, we have an expectation that IDEQ will do likewise. While we were certainly aware of your work with FMC on addressing the calciner ponds, it was only after the State's Consent Order was final and signed that we were informed of your decisions on the SOW.

While we appreciated having the chance to see earlier versions of the SOW, we were not made privy to the finalized version before its signing. I would suggest that some type of consultation prior to final agreement would have been in order so that we might have an opportunity to resolve any perceived problems or concerns with the agreement before, rather than after, its signing.

Although the FMC facility is closed, it is still subject to EPA RCRA closure and post-closure requirements and to EPA Superfund requirements specified in the Record of Decision (ROD), and any new requirements specified in any amendment of the original ROD. In addition to multiple regulatory programs, there are a number of complex technical issues which require close coordination to insure consistent and efficient resource utilization for all involved, including the company. For instance, it is important for us to consider how best to address post-closure and financial assurance as well as groundwater requirements for the calciner ponds, given that EPA is addressing these issues for the rest of the facility. We propose the development of a communication protocol to prevent or minimize communication breakdowns in the future.

I will call you in a few days to discuss how we can mutually begin to address these issues.

Sincerely,



Richard Albright, Director *for*  
Office of Waste and Chemicals Management



FMC Letter to IDEQ Calciner Pond Order  
7/30/02

CONCURRENCES:

INITIALS	<i>hm</i>	<i>jh</i>	<i>st</i>		POLICY FILE		RCRIS INFO SUBMITTED	
NAME	Meyer	J. Hunt	Haselberger		YES	<u>NO</u>	YES	<u>NO X</u>
DATE	7/30/02	7/31/02	7/30/02		IF YES, BCC:		ATTACHED	

PEER REVIEW:

INITIALS				<i>mb</i>	<i>sl</i>	
NAME	Palumbo		Fisher	Brown	Orlean	Hedeen
DATE				7-30-02	7/31/02	

bcc: Andy Boyd, ORC  
Sylvia Burges, WCM  
Gil Haselberger, OEC  
Sue Skinner, EPA-Pocatello  
Michele Pirzadeh, ECL  
Mark Masarik, IOO  
Charles Ordine, ORC  
Jeff Hunt, WCM  
Dave Croxton, ECL